

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LANGER TRANSPORT CORPORATION  
Employer

and

Case 13-RC-194627

TEAMSTERS LOCAL UNION NO. 705  
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Certification of Representative is denied as it raises no substantial issues warranting review.<sup>1</sup>

PHILIP A. MISCIMARRA, CHAIRMAN

MARK GASTON PEARCE, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., December 15, 2017.

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<sup>1</sup> Employer's Objection 1, and the accompanying offer of proof, state that three of the mail ballot envelopes were not signed across the back flap, but that the Field Examiner conducting the election nevertheless opened the envelopes and commingled the ballots. As the Employer had not formally challenged these ballots at the count, the Regional Director overruled this objection without a hearing, finding that it amounted to post-election objections. In its Request for Review, the Employer now contends, for the first time, that its representatives at the ballot count "reported their concern to the Field Examiner that the signatures were not properly affixed to the envelopes," that "she told them that they had one week to object," and that the Employer therefore "relied upon the Field Examiner's advice and the Election proceeded to the vote tally." We find it unnecessary to pass on the Employer's assertion that it is entitled to a hearing on whether the Field Examiner "may have inadvertently misled" its representatives. Even assuming, *arguendo*, that three ballots were not signed across the back flap, as the instructions on the envelopes provided, we find that this circumstance, without more, would be insufficient to call into question their validity. There is no contention that the envelopes were not signed in some other place, and no party claims there is any evidence of fraudulent conduct or impropriety in handling the ballots, such as opening or tampering with the envelopes. Cf. *Sawyer Lumber Co., LLC*, 326 NLRB 1331, 1331 fn. 6 (1998) (refusing to invalidate an election based on deviations from the Case Handling Manual's guidelines that do not raise a reasonable doubt as to the fairness and validity of the election).

Members Pearce and McFerran observe that the Employer did not present the aforementioned facts, or its argument based on them, to the Regional Director in its objections or in its offer of proof. As a result, they find that they are not properly before the Board, and would deny the Request for Review on this ground alone. See Board's Rules & Regulations, Secs. 102.69(c)(2), 102.67(e); *Pulau Corp.*, 363 NLRB No. 8, slip op. at 1 fn. 1 (2015). They nevertheless also agree with their colleague that the request for review lacks merit.